

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 18-8883 FMO (MRWx)	Date	October 29, 2018
Title	Chenhui "Wayne" Luo v. Kaiyin Shan		

Present: The Honorable Fernando M. Olguin, United States District Judge

Vanessa Figueroa

None

None

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorney Present for Plaintiff(s):

Attorney Present for Defendant(s):

None Present

None Present

Proceedings: (In Chambers) Order to Show Cause Re: Subject Matter Jurisdiction

On October 15, 2018, plaintiff Chenhui Luo ("plaintiff") filed a Complaint against defendant Kaiyin Shan ("defendant") alleging slander per se, libel per se, intentional infliction of emotional distress, and civil harassment. (See Dkt. 1, Complaint at ¶¶ 24-44). Plaintiff alleges that the court has subject matter jurisdiction based on diversity of citizenship because plaintiff is a citizen of China and defendant is a citizen of the state of California. (See id. at ¶ 6). With respect to the amount in controversy, plaintiff makes the bare allegation that "the amount in controversy exceeds \$75,000[.]" (id.), but the court has concerns as to whether the true amount in controversy meets the \$75,000 threshold. See 28 U.S.C. § 1332(a).

"The party seeking to invoke the district court's diversity jurisdiction always bears the burden of both pleading and proving diversity jurisdiction." Rainero v. Archon Corp., 844 F.3d 832, 840 (9th Cir. 2016) (quoting NewGen, LLC v. Safe Cig, LLC, 840 F.3d 606, 613-14 (9th Cir. 2016)). The Complaint's bare, conclusory allegation that "the amount in controversy exceeds \$75,000[.]" (Dkt. 1, Complaint at ¶ 6), does not satisfy plaintiff's burden to "both plead[] and prov[e] diversity jurisdiction." See Rainero, 844 F.3d at 840.

Based on the foregoing, IT IS ORDERED that no later than **November 9, 2018**, plaintiff shall show cause in writing why this action should not be dismissed for lack of subject matter jurisdiction. Specifically, plaintiff shall file a First Amended Complaint addressing the deficiencies noted above. **Failure to respond to this order to show cause by the deadline set forth above shall be deemed as consent to the dismissal of the action without prejudice for lack of subject matter jurisdiction.**

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